



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCC/147266

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 11, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Sheboygan County Department of Human Services in regard to Medical Assistance, a hearing was held on May 30, 2013, at Sheboygan, Wisconsin.

The issue for determination is

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street  
Madison, Wisconsin 53703

By: Tim Gessler

Sheboygan County Department of Human Services  
3620 Wilgus Ave  
Sheboygan, WI 53081

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Sheboygan County.
2. Petitioner was enrolled in BadgerCare Core plan and was on the wait list at number 195.
3. The agency recently received a data match indicating that the Petitioner had health insurance or was eligible for health insurance. As a result, the agency issued a Notice of Decision to the

Petitioner informing her that she was no longer eligible for the BadgerCare Core plan. The agency removed the Petitioner from the wait list.

4. Petitioner contacted the agency. The agency determined the data match was incorrect and the Petitioner was continuously eligible for BadgerCare Core and should not have been removed from the wait list.
5. The agency placed the Petitioner on the wait list at a number above 27,000.
6. The Petitioner filed an appeal on February 11, 2013 with the Division of Hearings and Appeals.

### **DISCUSSION**

The facts are not in dispute. The Petitioner was continuously eligible for the BadgerCare Core plan and should not have been removed from the wait list. The agency concedes its error. The agency worker testified that once a person is removed from the wait list, the county agency has no mechanism to put a person back on the wait list at a certain number on the list. The person is placed at the bottom of the list. The agency worker believed that a state system administrator may be able to place the Petitioner in her previous place at number 195 if there is a hearing decision ordering such action. So, I am hereby ordering the administrator to place the Petitioner at number 195 on the wait list for the BadgerCare Core plan before she was incorrectly taken off the wait list.

### **CONCLUSIONS OF LAW**

The agency erred in removing Petitioner from the BadgerCare Core plan wait list. Petitioner should be placed back on the BadgerCare Core plan wait list at number 195.

**THEREFORE, it is**

### **ORDERED**

That this matter is remanded to the agency to take all administrative steps necessary to place the Petitioner at number 195 on the BadgerCare Core plan wait list. The agency shall issue written confirmation to the Petitioner that she has been placed back on the wait list at number 195 when the action is complete. All of these actions shall be taken within 10 days of the date of this decision.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

## **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 17th day of June, 2013

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\sDebra Bursinger  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Wayne J. Wiedenhoeft, Acting Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on June 17, 2013.

Sheboygan County Department of Human Services  
Division of Health Care Access and Accountability